

Message from Attorney General Derek Schmidt

Dear Fellow Kansans:

Sometimes, we all need help. One of the ways to establish a formal arrangement for another person to help with certain aspects of your life is through a Power of Attorney.



Granting a Power of Attorney is an important decision. A Power of Attorney can give another person power over your affairs, from relatively simple matters such as paying your bills to intensely personal and complicated matters such as your health care decisions.

It's critical to get good legal advice before signing a Power of Attorney. This brochure can describe some of the basic terms involved as well as tips for you to consider, but it is no substitute for personal legal advice from a competent attorney.

I hope you find this information helpful.

Best wishes,

A handwritten signature of Derek Schmidt in black ink.

Frequently Asked Questions

When should I seek legal advice?

The decision of to use a Power of Attorney is an important one that can affect your health and livelihood. You should seek competent legal counsel to ensure the Power of Attorney document accomplishes what you intend.

What type of lawyer should I see?

Estate planning can be complex, especially for lawyers who do not specialize in that particular area of the law. Just like you would want to see a cardiologist for a heart condition, you should seek counsel from an estate planning attorney about your Power of Attorney.

What if my attorney-in-fact does not carry out my wishes?

As long as you remain competent to appoint an attorney-in-fact, you can revoke the Power of Attorney. If you are no longer competent, others may step in to protect your interests and take appropriate steps under the law in the event your Power of Attorney is not followed.

Finding Legal Assistance:

Kansas Elder Law Hotline
Monday-Friday, 8:30 a.m.-4:30 p.m.
(888) 35-ELDER or (888) 353-5337

Kansas Legal Services – Central Intake
(800) 723-6953

“Be a Savvy Senior”

Power of Attorney



Provided by

KANSAS ATTORNEY GENERAL

Derek Schmidt

120 SW 10th Ave., 2nd Floor

Topeka, KS 66612-1597

Phone: (785) 296-2215 or (888) 428-8436

Fax: (785) 296-6296

www.ag.ks.gov

in partnership with the
Topeka Coalition on Adult Abuse

Important Definitions to Know

Principal: Individual executing the Power of Attorney or Durable Power of Attorney, granting power to an attorney-in-fact.

Attorney-in-Fact/Agent: Individual or entity appointed by the principal to act in his or her place.

Power of Attorney (POA): Grants an individual or institution the power to make decisions about the property and financial affairs, typically ending at death or incapacitation. It can be as limited as granting authority to pay monthly bills or as broad as managing all financial decisions.

Durable Power of Attorney (DPOA): A Power of Attorney that survives incapacitation. This Power of Attorney requires language specifying that the power does not cease in the event of incapacitation.

Durable Power of Attorney for Health Care Decisions: Power of Attorney granting authority to an individual to make health care decisions, including authority to review medical records, when the principal is no longer capable of making those decisions.



Tips for Creating an Effective POA/DPOA

- ✓ You must be mentally **competent** to consent to a POA/DPOA.
- ✓ A POA/DPOA must be **in writing, signed by the principal and acknowledged by a Notary Public.**
- ✓ If you are unable to physically execute a POA/DPOA, you **may designate** an adult to sign on your behalf, in the presence of a Notary Public.
- ✓ **Read** the POA/DPOA and **know/understand** what powers you are giving by the POA/DPOA.
- ✓ **Specify** all powers granted in the POA/DPOA. Make sure all powers are **clearly defined** and if you want to limit any powers, those limitations must be spelled out in writing.
- ✓ Make sure the attorney-in-fact **understand the powers being given to them** and how you want those powers to be exercised.
- ✓ **Remember:** You are the boss.

Always consult a lawyer before executing a Power of Attorney.

Selecting someone to be your Attorney-in-Fact

Financial Expertise: Your attorney-in-fact may have to handle all financial dealings on your behalf. Do they have any expertise to assist in these dealings? Are they capable of managing finances, theirs and yours?

Organization is Key: Your attorney-in-fact must be capable of keeping track of all your assets, pay your bills, balance your checkbook, etc., in addition to handling his or her own finances.

Location, Location, Location: Where your attorney-in-fact lives may be important to ensure he or she can properly handle your affairs in a timely manner.

Time Management: How busy is the person, and will he or she have time to devote to handling your finances, in addition to other responsibilities?

Communication: Is the person good at communicating with others, including family members, doctors, care givers and **you**? Communication is very important and can protect you and your assets from exploitation.

Privacy and Trust: Your attorney-in-fact may have access to very personal information. Can you trust him or her to keep these matters confidential?

Openness: When possible, let a family member, friend or someone besides the attorney-in-fact know about your Power of Attorney. Allowing your attorney-in-fact to operate in secret may result in the temptation to exploit the situation.